

CHAPTER 3-000 DETERMINATION OF BENEFITS

3-001 Description of Benefits: AABD/MA or SDP/MA assistance consists of money payments to the client and/or payments made directly to the provider for medical care and services. Neither service needs nor medical needs are shown on the budget form.

Assistance payments to the client must not exceed the budgetary need of the unit. There is no minimum payment.

Provider payments for medical requirements are determined according to the standards in Title 471.

3-002 (Reserved)

3-003 Planning the Assistance Budget: The worker shall plan the assistance budget with the client by discussing and explaining the following:

1. Budgeting process;
2. Individual requirements;
3. Persons whose needs may be included in the budget;
4. Use of items supplied or obtained in-kind;
5. Use of any income;
6. Determination of the amount of the assistance payment;
7. Provision of medical services; and
8. Why it is necessary for a client to keep the local office informed of changes in his/her circumstances which may affect his/her needs.

3-004 Individual Requirements Included in Assistance Budgets: The individual requirements are -

1. Standard of need;
2. Shelter up to the maximum; and
3. Special requirements.

3-004.01 Standard of Need: The standard of need is a consolidation of items necessary for basic subsistence with amounts based on unit size. Included in this standard are food, clothing, sundries, home supplies, utilities, laundry, telephone, garbage collection, and recreation. Also included in this standard amount are meals prepared away from home, therapeutic diet, special clothing allowance, meals furnished to a household employee, transportation for shopping, and special taxes or use charge.

The standard of need is based on the tables in 469-000-211.

3-004.01A Alternate Living Arrangements: The standard of need for alternate living arrangements is a consolidated allowance for items necessary for basic subsistence. Included in this standard are -

1. Board;
2. Room;
3. Clothing;
4. Personal needs;
5. Laundry;
6. Transportation; and
7. Medical and remedial services (The consolidated standard of need for board and room [see 469 NAC 3-004.01A2] and licensed boarding homes [see 469 NAC 3-004.01A3] includes items 1 through 6 but does not include remedial services.)

If a need arises which is not provided to the individual by the alternate care facility or by another means, consideration may be given to including an additional allowance according to 469 NAC 3-004.03, Special Requirements.

If a client enters an alternate care facility and it appears that s/he may be able to return home, the cost of rent or home ownership and/or utilities may be allowed in accordance with the guidelines in 469 NAC 3-006.02B5.

3-004.01A1 Licensing of Facilities: In determining the appropriate standard to be allowed, the worker shall verify the current licensure/certification of the facility. If the facility is covered under more than one licensure/ certification, the worker shall verify in which section the client is residing and which licensure/certification applies.

Nebraska law directs NHHSS and other public and private agencies who arrange and supervise living arrangements to report any facility which is not currently licensed and serves more than three individuals. The worker shall contact the Central Office, Aged and Disabled Services, if an unlicensed facility is identified.

3-004.01A2 Board and Room: Board and room does not include care or supervision and may be with a relative.

In addition to the actual amount of board and room paid, the client is allowed a personal needs allowance. The total allowance must not exceed the standard for Board and Room (see 469-000-211).

{Effective 1/9/2000}

3-004.01A3 Licensed Boarding Home: Boarding homes provide the following to four or more individuals who are essentially capable of managing their own affairs:

1. Sleeping and other living accommodations;
2. A dining room, cafe, or common kitchen; and
3. Domestic services requested by the individuals which will assist them in daily living activities.

If board and room is provided by the boarding home, the allowance is treated as board and room (see 469 NAC 3-004.01A2). If food is not provided by the boarding home, the appropriate standard of need plus the shelter allowance shown in 469 NAC 3-004.02A are allowed.

A non-licensed boarding home serving three or fewer is budgeted in the same manner.

3-004.01A4 Licensed Assisted Living Facility: An Assisted Living facility provides accommodation and board and care (e.g., personal assistance in feeding, dressing, and other essential daily living activities) for four or more individuals not related to the owner, occupant, manager, or administrator. These individuals are unable to sufficiently or properly care for themselves or manage their own affairs because of illness, disease, injury, deformity, disability, or physical or mental infirmity.

Individuals residing in Assisted Living facilities do not require the daily services of licensed, registered, or practical nurses. However, staff in an assisted living facility may assist the individuals residing there in taking routine oral or external medication and also provide for storage and handling of the medication.

The monthly standard for an Assisted Living Facility includes an allowance for personal needs of the client. (See 469-000-211 for the payment standard.)

{Effective 1/9/2000}

3-004.01A5 Certified Adult Family Home: An Adult Family Home is a residential living unit which provides full-time residence with minimal supervision and guidance to not more than three individuals age 19 or older. Service includes board and room with meals, standard furnishings, equipment, household supplies, and facilities to ensure client comfort. These individuals are essentially capable of managing their own affairs but are in need of supervision. This may include supervision of nutrition by the facility on a regular, continuing basis, but not necessarily on a consecutive 24-hour basis.

The monthly standard for an Adult Family Home includes an allowance for personal needs of the client. (See 469-000-211 for the payment standard.)

{Effective 1/9/2000}

3-004.01A6 Licensed Group Home for Children and/or Child Caring Agency (Formerly Group Homes for the Mentally Retarded): This group care facility provides 24-hour accommodation for minors including care and supervision. The home provides services to two or more individuals who are developmentally disabled.

The monthly standard for a Licensed Group Home for Children or a Child Caring Agency includes an allowance for personal needs of the client. (See 469-000-211 for the payment standard.)

{Effective 1/9/2000}

3-004.01A7 Licensed Center for the Developmentally Disabled: A center for the developmentally disabled is any facility, place, or building not licensed as a hospital which provides accommodation, board, training, and other services when appropriate, primarily or exclusively, for four or more persons who are developmentally disabled.

Staff in a center for the developmentally disabled may assist individuals residing there in taking routine oral or external medication and also provide for storage and handling of the medication.

The term "center" includes:

1. Group Residence - Any group of rooms located within a dwelling and forming a single habitable unit with living, sleeping, cooking, and eating facilities for 4 through 15 developmentally disabled persons.
2. Institution for the Developmentally Disabled - Any facility other than a skilled nursing facility or an intermediate care facility I or II where 16 or more developmentally disabled persons reside.

The monthly standard for a Licensed Center for the Developmentally Disabled includes an allowance for personal needs of the client. (See 469-000-211 for the payment standard.)

{Effective 1/9/2000}

3-004.01A8 Long Term Care Facility: The payment to a long term care facility includes an allowance for personal needs of the client which is determined by the licensure or certification of the facility where the client resides (see 469 NAC 3-004.01A ff.).

This facility may be considered for all alternate care standards. The maximum amount allowed is the Assisted Living standard (see 469-000-211 for the Assisted Living standard).

For a client living in a care facility, see 469 NAC 3-006.02B5.

{Effective 5/8/05}

3-004.01A9 Assisted Living Waiver: See 469-000-203 for the standard for an individual receiving Assisted Living Waiver services. The monthly standard includes an allowance for personal needs of the client.

{Effective 1/9/2000}

3-004.01B AABD or SDP Standard of Need: The worker continues to use the standard of need for independent living and shelter costs or the consolidated standard for alternate living when SSI notifies the agency that the client will continue to receive full SSI payment for up to three months because the individual is likely to return to his/her previous living arrangement. The worker follows procedures in 469 NAC 3-006.02B5 for allowing shelter and/or utilities when -

1. SSI reduces or terminates the payment at the end of the three-month extension;
2. SSI determines that the client does not qualify for the full benefit for the three-month period; or
3. The client was not receiving SSI before admission to the medical facility.

If the client is in a hospital (or receiving acute hospital care) or licensed alcohol/drug treatment center, the worker shall use the standard of need which most accurately reflects the client's living arrangement (see 469 NAC 2-008.03).

{Effective 4/11/95}

3-004.02 Shelter: The item shelter includes rent and the expenses of home ownership.

If the client has gratuitously transferred the title for the home in which s/he is living, no allowance for shelter expense may be included. If the client retains a life estate in the home, see 469 NAC 3-004.02A2.

When an AABD/MA or SDP/MA client shares a household with other individuals who are not receiving categorical assistance, the AABD/MA or SDP/MA client is allowed the prorated share of the actual cost of shelter, up to the single shelter amount. If the client can provide verification that s/he is responsible for paying more than his/her prorated share, the actual cost up to the maximum may be allowed.

When AABD/MA or SDP/MA eligible clients live together in the same household in the combinations listed in 469 NAC 3-004.02A, item 2, their shelter allowance must not exceed the maximum multiple shelter amount (see 469-000-211).

{Effective 4/11/95}

3-004.02A Maximum Shelter Allowance: The worker uses:

1. The single shelter amount for one; or
2. The multiple shelter amount for:
 - a. A married couple who are living together;
 - b. An AABD/MA or SDP/MA parent living with a minor child; or
 - c. An AABD/MA or SDP/MA client living with other EP's whose needs are included in the budget.

(Clients who have Central Office-approved shelter costs above the maximum before August 1, 1977, will be maintained at that level until the client moves.)

{Effective 4/11/95}

3-004.02A1 Rent: The allowance for rent should be sufficient to provide the family with decent quarters comparable to the standard for persons of modest circumstances in the same community (see 469-000-211).

{Effective 4/11/95}

3-004.02A1a Clients in Public Housing: When a client enters federally subsidized low-rent public housing from private housing, the budget must reflect the lowered rent amount. If the client is in public housing when s/he applies for assistance, the worker shall use the amount the client is responsible for paying at the time of application.

If the client remains in public housing and the shelter amount fluctuates, the budget must reflect increases in the shelter amount, but not decreases.

3-004.02A2 Home Ownership

3-004.02A2a Expenses of: Expenses of home ownership may be allowed if the client or spouse owns the home in which the client lives, provided the allowance does not exceed the cost of rent.

If the client or spouse has only a life interest in the home, the terms of the conveyance must be examined in determining whether the client or the titleholder is responsible for the expenses of home ownership. The case record must contain an explanation if an allowance is included in the budget.

3-004.02A2b Standards for Determining Costs: The cost of interest or payments on mortgages or contract purchases, current taxes, and insurance may be allowed in the assistance budget as follows:

1. **Mortgage or Purchase Contract:** Interest and payments on the mortgage or purchase contract on the home may be included in the budget.

2. Taxes: Current taxes on the home occupied by the client may be allowed on a monthly prorated basis unless the payment of taxes is included in the monthly payment on the mortgage or contract purchase.

Taxes may be allowed only for the lot(s) on which the house stands. No allowance may be made for taxes on other lots owned by the applicant unless the taxes cannot be determined separately from the taxes for the lot(s) on which the home is located.

If taxes have been allowed in an earlier budget but not paid, they may not be included in the budget again.

3. Insurance: The amount of the homeowner's insurance is included in the budget on a prorated or lump sum basis, unless insurance is a part of the payment on the mortgage or purchase contract.
4. Total Cost: The total cost of home ownership must not exceed the maximum shelter allowance.

3-004.03 Special Requirements: Special requirements are those that are essential because of the particular circumstances of an individual's situation. The inclusion of special requirements in the budget must be explained in the case record. In considering the need for a special requirement, the worker shall determine if the need is essential to the client's health and decency, and if the need could be met from another source. If the need is a one-time only expenditure, the worker shall consider whether the client has liquid assets available to totally or partially pay for the need. A trust that has been established for a disabled individual which has been excluded as a resource must be considered a resource for special needs.

{Effective 2/27/94}

3-004.03A Items That May Be Allowed as Special Requirements: The following may be allowed as special requirements in accordance with the provisions found at 469 NAC 3-004.03A ff.:

1. Transportation;
2. Household furniture and appliances;
3. Expenses of moving;
4. Back taxes;
5. Subsistence to obtain medical care;
6. Maintenance for a service animal;
7. Guardian/conservator fee of \$10 per month;
8. Medical expenses of an EP;
9. Cost of home repair;
10. Automobile liability insurance; and
11. Lifelines.

{Effective 8/2/2000}

The local office may allow a special requirement differing in kind or in amount from those previously listed or allowed for in the standard of need or in the shelter allowance. The special requirement may be a one-time only need or an ongoing need. The client must provide documentation for the case record to verify the need for the expense in the budget. The worker must request prior Central Office approval on Form ASD-17 before allowing the expense in the budget.

3-004.03A1 Transportation: The cost of transportation may be allowed as a special requirement for obtaining medical services.

Transportation needs other than by the client's own car are referred to the social services unit on a Client Referral. If the social services unit returns the request stating it is unable to pay, the transportation cost must be allowed as a special requirement.

If public transportation is used, the cost for one attendant may be allowed if one is needed to accompany the client.

3-004.03A2 Furniture and Appliances: The cost of furniture and/or appliances is allowed if:

1. The unit lacks essential items; or
2. The items the unit has are no longer usable.

3-004.03A2a Payment Limits: Items may be either purchased or repaired if the cost is:

1. \$749.99 or less and the local office has given prior authorization; or
2. \$750 or more and the Central Office has given prior authorization.

3-004.03A2b Installment Payments: If at the time of application, the client is making payments on an installment plan for new or used furniture or appliances, the worker must include an allowance to complete the payments, provided the cost is reasonable and the item(s) is needed.

3-004.03A3 Expense of Moving: The cost of moving personal belongings is included in the budget as a special requirement if the client is forced to move for reasons beyond the client's control, or if the move is made to obtain shelter at lower cost.

3-004.03A4 Back Taxes: Back taxes are allowed as a special requirement only if all of the following circumstances apply:

1. The individual would unquestionably lose the home if taxes are not paid;
2. The plan to remain in the home is preferred by the client and recommended by the worker; and
3. The taxes were not previously allowed as a shelter expense.

Back taxes, when allowed, may be paid in a lump sum or prorated.

3-004.03A5 Subsistence to Obtain Medical Care: The cost of meals and lodging is included in the budget when the expense is necessary to obtain approved health services and only if the client is away from home for 12 hours or more. The allowance for cost of meals is \$12 per day. Additionally, the cost of lodging will be allowed if reasonable and if receipts are provided by the client.

The \$12 allowance for cost of meals, plus the additional allowance for cost of lodging may also be provided for an attendant if one is needed to accompany the client.

Exception: Special requirements should not be used for meals and lodging if the facility is enrolled as an Ambulatory Room and Board provider.

3-004.03A6 Maintenance of a Service Animal: An allowance for medical or maintenance expenses for a service animal is included when there is a physician's statement that the client requires a service animal. A service animal is defined as a guide dog, signal dog, or another animal that is individually trained to provide assistance to an individual with a disability. For the amount of the allowance, see 469-000-211.

{Effective 8/2/2000}

3-004.03A7 Guardian/Conservator Fee: An allowance is included when a client has a court-appointed conservator or guardian. The actual fee or an amount not to exceed \$10 a month is allowed. The allowance may be removed if it is documented in the case record that the guardian or conservator does not wish to receive the \$10 allowance.

If the guardian/conservator is required by the court to purchase a bond and file an annual report with the court, the actual amount approved by the court for these expenses may be allowed. The amount allowed by the court for the guardian/conservator's own expenses (in excess of \$120) may also be allowed as a special requirement. See 465 NAC 2-008.06 for attorney's fees.

3-004.03A8 Medical Expenses of an EP: If the client provides verification of payment of a medical bill or health insurance premium (except for income-producing policies) for an EP included in the budget, an amount up to the total monthly countable net earned and unearned income, including SSI, may be allowed. The EP must have incurred the medical bill since the client became eligible for assistance.

3-004.03A9 Home Repair: An allowance may be made for the cost of home repair if the client owns and occupies his/her home and the repair is considered essential to the occupancy of the home. If the cost of the repair exceeds \$1000, the worker shall submit Form ASD-17 to the Central Office with the necessary documentation describing the repair and cost.

3-004.03A10 Automobile Liability Insurance: An allowance may be made for the cost of automobile liability uninsured and underinsured insurance required by state law. If the cost is \$274.99 or less for a six-month premium, the local office may approve the special requirement. If the cost is \$275 or more, the worker shall submit Form ASD-17 to the Central Office with the necessary documentation.

{Effective 12/17/95}

3-004.03A11 Lifelines: An allowance may be made for the installation and ongoing monthly fees for lifeline telephone service.

3-004.03B Items That Are Not Allowed as Special Requirements: The following items are not allowed as special requirements:

1. Personal computers because they are considered a vocational rehabilitation and educational item;
2. Smoking cessation programs because there are no national standards or official oversight of these programs. Guaranteed one time, long term smoking cessation success is not demonstrated by current programs;
3. Health club memberships and exercise or fitness equipment because these are related to weight loss and rehabilitation and essential components to assess the success of the individual program and to monitor the client's progress are unavailable;
4. Weight loss programs because there are no national recommendations and standards for these programs. Safety and efficacy issues are unresolved on the national level with no Federal Department of Agriculture or official oversight of this industry. Essential components for individualization for each person's special circumstances are not available;
5. Lawn care service, snow removal, and the equipment and supplies for them; and
6. Medical services and goods which are not covered by the Nebraska Medical Assistance Program because of limits on amount, scope, or duration established by the Director of NDHHS.

3-006 Budget Computation

3-006.01 Budgeting Process for Clients Not Receiving SSI (Including Clients Determined Eligible for 1619(b) Status by SSI): The budget process for determining eligibility for and amount of assistance payment is completed on Form IM-25. The worker determines the budgetary need by comparing the monthly requirements of the unit to its net monthly income. To determine need, the worker shall -

1. Compute available net income;
2. Compute total requirements for the unit size; and
3. Measure all net income against total requirements. If the income is not sufficient to meet the total requirements, the difference is the budgetary need. If the income is sufficient to meet the client's total requirements, the client does not have a budgetary need. Determine if there is a need for medical assistance using Form DA-3M or DA-4M and criteria in Chapter 4-000. If the client has been determined eligible for 1619(b) status by SSI, it is not necessary to complete Form DA-3M (see 469 NAC 4-001.04).

Payment may begin no earlier than the month of application and no later than the month following the month of application if all eligibility requirements are met.

If at any time factors change that affect the budget, the worker shall recompute the budget.

3-006.01A Budgeting Process for Clients Receiving SSI: The budget for clients who are receiving SSI is completed on Form IM-25. To determine need, the worker shall -

1. Compute only the following available net income. This income is not allowed the \$20 general income disregard:
 - a. Income of non-spouse Essential Persons;
 - b. Veteran's Aid and Attendant benefits; and
 - c. Income allocated from another assistance unit (see 469-000-305);
 - d. Income of an ineligible spouse not used by SSI in the calculation of the client's SSI payment. SSI disregards the deemed income if it is less than the difference between the federal benefit rate for an individual and a couple. SSI calculates the SSI payment based on the federal benefit rate for an individual.
Exception: Do not include VA benefits of the ineligible spouse which are disregarded by SSI, see 469 NAC 2-006.01.
2. Determine total requirements based on the unit size; and
3. Measure net income (identified in number 1) against total requirements. If there is no budgetary need and the -

- a. Income and resources of a non-spouse essential person were included, remove income and needs of the EP from the budget and recalculate; or
- b. If Veteran's Aid and Attendant benefits or income allocated from another assistance unit were included, determine eligibility for medical assistance (see Form DA-3M instructions, PAF 4-1).

3-006.01A1 Calculation of State Supplemental Payment: If it is determined that the client has a budgetary need and the client is receiving SSI, the computer automatically subtracts the SSI Federal Benefit Rate from the budgetary need to determine the amount of state supplemental payment. If the SSI Federal Benefit Rate is greater than the budgetary need, the client is considered a grant case but does not receive a state supplemental payment (see 469 NAC 2-010.01B2b).

For a blind client receiving SSI who has earned income in the earned income field, N-FOCUS automatically adds \$20 to the warrant amount (see 469 NAC 2-010.01E1b(2)).

3-006.01A2 Budgeting Individuals in Long Term Care for Three Continuous Months: The worker shall use non-SSI budgeting procedures for individuals in long term care when SSI does not make a change in living arrangement at the end of three full continuous months and income exceeds the FBR for a single individual in an institution (see 469-000-207).

{Effective 4/11/95}

3-006.01B Deductions for Medical Insurance: Standards in 469 NAC 3-000 do not allow for deductions for medical insurance premiums, i.e., private policies, Medicare, etc., on Form IM-25. Therefore, if an insurance premium is being deducted from the client's unearned income, the worker shall add the premium amount back in to arrive at the correct amount to show on Form IM-25 (see 469 NAC 2-010.01B2a). Form DA-3M, which is computed based on standards in 469 NAC 4-000, can reflect medical insurance deductions (see 469 NAC 4-006).

3-006.01C Buy-In of Part B: A client is eligible for state payment of Medicare Part B premium (buy-in) if eligible for a state payment or MA only. A client who is eligible for MA with excess income is not eligible for the buy-in.

For payment of Part B Medicare premiums for Qualified Medicare Beneficiaries, see 469 NAC 7-000.

3-006.02 Persons Included in the Budget: The assistance budget is computed to determine the need of a client for assistance. Consideration must be given to the fact that presence in the home of other persons may be essential to the well being of the client and affect his/her need (see 469 NAC 1-004). The individual requirements of these EP's may be included in the budget of the client. EP's in the home may include the spouse, minor or adult children, grandchildren, parents, sisters, or brothers. The decision of whether an individual is essential to the client rests with the client. An individual who is considered a spouse by SSI, even though s/he is not married to the client, is considered an EP in the AABD budget. The EP is not eligible for assistance in his/her own right. If the couple has completed a designation of resources and protected resources above the resource limit for two persons, the income and needs of the community spouse are not included in the payment budget.

The needs of an ineligible spouse are not included as an EP in the client's budget if the ineligible spouse is receiving Veterans benefits based on need that SSI is disregarding in determining the client's SSI.

The needs of an EP may be included in the budget to determine eligibility for payment. When an EP has been included in the client's budget, their combined income and resources must not exceed standards (see 469 NAC 2-009.08 and 3-004.01B).

If an EP included in the budget has no other means of meeting medical needs and is not eligible for MA in his/her own right, see 469 NAC 3-004.03A8.

If there is no budgetary need, the worker must determine eligibility for MA or MA with Share of Cost using the appropriate income level in 469 NAC 4-007. The appropriate maintenance level for MA is determined by considering the client(s) and the EP only if the EP is the spouse or minor child.

If the ineligible parent(s) of a minor AABD/MA or SDP/MA client does not have income which has been considered for deeming purposes, his/her needs may be included in the minor's budget if it has been determined that the parent's continued presence in the home is necessary for the child's well-being. If the parent has income which is being considered for deeming, his/her needs have already been recognized in this process (see 469 NAC 2-010.01F). If a parent's needs have been removed from an ADC/MA unit for noncooperation (i.e., Employment First/employability or child support), his/her needs may not be included in the AABD/MA or SDP/MA child's budget.

{Effective 8/18/03}

3-006.02A Potential Assistance for Essential Persons (EP's): The worker must explore the possible eligibility for assistance of other EP's and require them to apply for any assistance for which they appear to be eligible (see 469 NAC 2-010.01B6 and 2-010.01B6a).

3-006.02B Determining Total Requirements: In determining the amount of the individual requirements in the following subparts, living independently includes rent, allowances for the cost of home ownership, and the cost of a room when the client is living in a boarding home and paying room only. Alternate living arrangements include board and room, licensed boarding homes, assisted living, certified adult family homes, licensed group homes for children and/or child caring agencies, and centers for the developmentally disabled.

Care facilities include nursing homes and public institutions for the treatment of mental diseases and/or mental retardation.

The following regulations discuss budgeting procedures for these living situations:

1. 469 NAC 3-006.02B1 Living Alone;
2. 469 NAC 3-006.02B2 Living With EP's;
3. 469 NAC 3-006.02B3 Living With Clients With Relative Responsibility;
4. 469 NAC 3-006.02B4 Living With Persons With No Relative Responsibility; and
5. 469 NAC 3-006.02B5 Allowance While Living in a Care Facility.

3-006.02B1 Living Alone

3-006.02B1a Living Independently: The budget of an AABD/MA or SDP/MA client who is living alone in an independent living situation shows:

1. The standard of need for one (see 469-000-211);
2. The actual shelter expense up to the single shelter amount (see 469-000-211); and
3. Special requirements, if applicable (see 469 NAC 3-004.03).
{Effective 4/11/95}

3-006.02B1b Living in an Alternate Living Arrangement: The budget of a AABD/MA or SDP/MA client who is living alone in an alternate living arrangement shows:

1. The standard of need for the alternate living situation (see 469-000-211); and
2. Special requirements, if applicable (see 469 NAC 3-004.03).
{Effective 4/11/95}

3-006.02B2 Living With EP's

3-006.02B2a Living Independently: The budget of an AABD/MA or SDP/MA client who is living with EP's in an independent living situation shows:

1. The standard of need for the client plus EP's (see 469-000-211);
2. Actual shelter expense paid up to the multiple shelter amount (see 469-000-211); and
3. Special requirements, if applicable for the client and EP's (see 469 NAC 3-004.03).

{Effective 4/11/95}

3-006.02B2b Living in a Board and Room Arrangement: The budget of an AABD/MA or SDP/MA client who is living with EP's in a board and room arrangement shows:

1. Board and room as paid plus an allowance for personal needs up to the maximum for the client and EP (see 469-000-211); and
2. Special requirements, if applicable, for the client and EP's (see 469 NAC 3-004.03).

{Effective 4/11/95}

3-006.02B3 Living With Clients With Relative Responsibility: When the AABD/MA or SDP/MA client is living with an eligible individual for whom there is relative responsibility (see 469 NAC 2-006), payment is computed according to the guidelines in the following subparts.

3-006.02B3a Client and an Eligible Spouse

3-006.02B3a(1) Spouse on AABD/MA or SDP/MA: The needs of the eligible AABD couple who are living together (independently or in an unlicensed board and room) are shown on the same budget form and the payment is divided equally.

3-006.02B3a(1)(a) Living Independently: When the couple is in an independent living situation, the budget must show:

1. The standard of need for two (see 469-000-211);
2. Actual shelter expense paid up to the multiple shelter amount (see 469-000-211); and
3. Special requirements for each, if applicable (see 469 NAC 3-004.03).

{Effective 4/11/95}

3-006.02B3a(1)(b) Living in Board and Room Arrangement: When the couple is in an unlicensed board and room arrangement, the budget must show:

1. The actual amount of the board and room up to the maximum for the AABD/MA or SDP/MA client and the AABD/MA or SDP/MA spouse (see 469-000-211); and
2. Special requirements for an AABD/MA or SDP/MA client and/or an AABD/MA or SDP/MA spouse (see 469 NAC 3-004.03).

{Effective 4/11/95}

3-006.02B3a(2) Spouse on ADC/MA or CMAP: If an AABD/MA or SDP/MA client lives with a spouse who is receiving ADC/MA or RRP/MA, the budgets must be computed separately. Neither the needs nor the income of the ADC/MA or RRP/MA client may be considered in the AABD/MA budget.

{Effective }

3-006.02B3a(2)(a) Living Independently: When the couple is in an independent living situation, the budget for the AABD/MA or SDP/MA client will show:

1. The prorated share of the standard of need based on the total number in the case-(see 469-000-211);
2. The prorated share of the shelter allowance up to the multiple shelter amount based on the total number in the case (see 469-000-211); and
3. Special requirements, if applicable (see 469 NAC 3-004.03).

{Effective 5/11/99}

3-006.02B3a(2)(b) Living in an Alternate Living Arrangement: When the AABD/MA or SDP/MA client is in an alternate living arrangement, the budget for the AABD/MA or SDP/MA client will show:

1. The standard of need for the appropriate alternate living arrangement (see 469-000-211); and
 2. Special requirements, if applicable (see 469 NAC 3-004.03).
- {Effective 4/11/95}

3-006.02B3b Living With an Eligible Minor Child or Parent: If a client lives with an eligible minor child or parent (i.e., an AABD/MA or SDP/MA parent and an ADC/MA, AABD/MA, SDP/MA, or CMAP child) the budgets are computed separately. If the AABD/MA or SDP/MA client lives with an eligible minor child who is receiving CMAP, see 469 NAC 3-006.02.

If the AABD/MA or SDP/MA client lives with his/her minor child who is self-supporting, see 469 NAC 3-006.02B4a.

Note: The same budget treatment is used when an AABD child is living with a parent who is receiving SDP/MA, AABD/MA, or ADC/MA.

3-006.02B3b(1) Living Independently: When the client and the eligible child are in an independent living situation, the budget for each must show:

1. The prorated share of the standard of need based on the total number in the case (see 469-000-211);
2. The prorated share of the actual shelter paid up to the multiple shelter amount based on the total number in the case (see 469-000-211); and
3. Special requirements, if applicable (see 469 NAC 3-004.03).

Note: Parents are held financially responsible for their children through age 17 for AABD and through age 18 for CMAP.

{Effective 5/8/05}

3-006.02B3b(2) Living in an Alternate Living Arrangement: When the AABD/MA or SDP/MA client(s) is in an alternate living arrangement, the budget for each AABD/MA or SDP/MA client must show:

1. The standard of need for the appropriate alternate living arrangement (see 469-000-211); and
 2. Special requirements, if applicable (see 469 NAC 3-004.03).
- {Effective 4/11/95}

3-006.02B4 Living With Persons With No Relative Responsibility: Only the needs of the client are considered in the budget when the client is living with other individuals for whom there is no relative responsibility (see 469 NAC 2-006).

3-006.02B4a Living with Self-Supporting Individuals with No Relative Responsibility: If a client is sharing a household with a self-supporting individual for whom the client has no relative responsibility (see 469 NAC 2-006), the budget is computed:

1. On a board and room basis, if the client is required to pay board and room (see 469-000-211);
2. On an expense-sharing plan when in an independent living arrangement using:
 - a. The standard of need for one (see 469-000-211);
 - b. Shelter costs (not to exceed the maximum) determined by:
 - (1) The prorated share of total shelter costs based on the number of persons in the case (see 469-000-211) not to exceed the maximum single shelter amount; or
 - (2) The actual amount of shelter paid up to the single shelter amount if the client can verify that s/he pays an amount other than the prorated share; and
 - c. Special requirements, if applicable (see 469 NAC 3-004.03).
{Effective 5/11/99}

3-006.02B4b Living with Other Clients with No Relative Responsibility: The budget of an AABD/MA or SDP/MA client living in the same household with other clients for whom the AABD/MA or SDP/MA client has no relative responsibility (see 469 NAC 2-006) is computed according to instructions in 469 NAC 3-006.02B4b(1) and 3-006.02B4b(2).

If an AABD/MA or SPD/MA client lives in the same household with an ADC/MA client, the AABD/MA or SDP/MA client's budget must be computed separately. Neither the needs nor the income of any ADC/MA client in the household may be considered in the AABD/MA or SDP/MA budget.

3-006.02B4b(1) Independent Living Arrangement: When the AABD/MA or SDP/MA client is in an independent living arrangement, the budget will show:

1. The standard of need for one (see 469-000-211);

2. The prorated share of total shelter costs based on the number of persons in the case not to exceed the single shelter amount (see 469-000-211); and
3. Special requirements if applicable (see 469 NAC 3-004.03).
{Effective 5/11/99}

3-006.02B4b(2) Living in a Board and Room Arrangement: When the AABD/MA or SDP/MA client is in a board and room or boarding home arrangement, the budget will show:

1. Board and room as paid plus personal requirements up to the maximum (see 469-000-211); and
2. Special requirements, if applicable (see 469 NAC 3-004.03).
{Effective 4/11/95}

3-006.02B5 Client Living in a Care Facility: The budget of a client living in a care facility shows:

1. The standard of need for Form IM-25 (see 469-000-211); and
2. An amount up to \$10 when the client has a guardian or conservator who requests a fee (see 469 NAC 3-004.03A7).

The expense of home ownership and/or utilities may be allowed only until it is apparent that the client cannot live there again (not to exceed six months). The budget may also allow for the expense of rent and/or utilities for up to six months. The total time for either allowance must not exceed six months. The allowances must not exceed the maximum shelter amount for one (see 469-000-211) if the client does not have a spouse.

Exception: See 469 NAC 3-004.01B for budgeting a client who continues to receive full SSI benefits for up to three months.

Note: If a client in an alternate care facility goes to a care facility, the worker must continue to budget the alternate care standard until it is apparent that the client will not return to the alternate care facility (not to exceed two months). If the client remains in the care facility beyond two months, Central Office approval is required via a Question Referral in order to continue using the alternate care standard.

{Effective 4/11/95}

3-006.02B6 AABD/MA Child Living with Self-Supporting Parents: If an AABD/MA minor child lives with a self-supporting parent(s), the child's budget will show -

1. The prorated share of the standard of need based on the total number in the case (see 469-000-211).
2. The prorated share of the actual shelter paid up to the multiple shelter amount (see 469-000-211); and
3. Special requirements, if applicable (see 469 NAC 3-004.03).
{Effective 4/11/95}

3-007 Payments for Assistance

3-007.01 Non-Restricted Payments: AABD or SDP assistance payments are money payments to the client, conservator, guardian, or individual acting under a duly executed power of attorney without restrictions as to the use of the funds.

3-007.02 Protective Payments: Protective payments may be made on behalf of a client who has a physical or mental impairment which causes an inability to manage AABD or SDP payments.

3-007.02A To a Guardian, Conservator, Duly Executed Power of Attorney: If an AABD/MA client has a guardian, conservator, or individual acting under a duly executed power of attorney, AABD or SDP payments may be made to the appointed person on behalf of the client. Certified copies of the letter of guardianship, conservatorship, or power of attorney are filed with the local office.

3-007.02B To a Protective Payee: Protective payments may be made on behalf of a client who has a physical or mental impairment which causes an inability to manage AABD or SDP payments.

3-007.02B1 Supportive Evidence: The determination of the need for protective payments must be substantiated by a physician's statement or medical report of condition.

The case record must contain documentation of the reason protective payments were selected in lieu of guardianship or conservatorship.

3-007.02B2 Selection of Payee: The client and worker shall jointly select the payee when possible. The payee must be an individual who can visit the client on a regular basis to discuss financial matters.

Protective payees may include relatives, friends, clergy who have a concern for the well-being of the client, or adult foster home sponsors (when recommended by the social services worker).

The payee must not be -

1. A local office administrator;
2. An HHS employee who determines financial eligibility for the client in question;
3. Landlords, grocers, or other vendors of goods and services dealing directly with the client; or
4. The operator of an alternate care facility.

3-007.02B2a Service Provider: The worker shall obtain Central Office approval before a service provider who contracts with the Department may act as protective payee for a client s/he serves.

3-007.02B3 Responsibilities: The protective payee is responsible for -

1. Paying maintenance needs from the grant (i.e., rent, utilities, food, clothing, etc.);
2. Explaining to the client how the grant will be spent;
3. Keeping records of payments received and disbursements made of funds; and
4. Treating confidentially all personal information concerning the family.

3-007.02B4 Fair Hearing: The client must be given the opportunity to appeal the initial decision or continuance of protective payments and the choice of the protective payee.

3-007.03 Erroneous State Supplement Payments

3-007.03A Underpayments: If a state supplement payment is made for an amount less than the amount the client was entitled to receive, a correction must be made. Retroactive corrective payments may be made for the 12 months preceding the month in which the underpayment is discovered. State supplement payments made to correct an underpayment are not considered income or a resource in the month paid or the month following the month paid.

3-007.03B Overpayments

3-007.03B1 Identification of an Overpayment: There are three types of overpayments:

1. Administrative errors: Worker errors caused by inaccurate computation or the worker's failure to take action;
2. Client errors: Errors caused because the client supplies inaccurate or incomplete information or fails to provide information resulting in an overpayment; and
3. Technical errors: Errors caused by the worker's failure to inform the client that s/he must apply for a Social Security number with the Social Security Administration or participate in Employment First. Only these omissions are identified as technical errors. Technical errors must be reported to the Central Office via Form IM-50.

Overpayments caused by client errors must be recouped. Overpayments caused by administrative or technical error are not recouped. (However, future payments must be corrected.)

{Effective 10/7/98}

3-007.03B2 Recoupment of Overpayments: If a state supplement payment is made for an amount greater than the amount the client was entitled to receive as the result of a client error, the overpayment is recouped by reducing current state supplement payments by at least ten percent.

The worker shall first send a demand letter, giving the client the choice of reimbursing all or part of the overpayment or having future assistance reduced. If the client reimburses part of the overpayment, the remainder must be recouped by grant reduction. The worker shall allow the client ten days to respond to the demand letter. If the client requests recoupment within the ten days, the worker shall take necessary action at that time. If the client does not respond within ten days, the worker shall begin recoupment procedures in the first month possible, taking into account adequate and timely notice.

Recoupment is limited to the amount of overpayment which occurred in the 12 months preceding the month in which the overpayment was discovered. If the overpayment occurred before the 12-month time limit, no action may be taken.

In cases of suspected fraud, the social service worker shall refer the case to the Special Investigation Unit, Central Office, or in the Omaha Office, to the Omaha Special Investigation Unit. Once a case has been referred to the Special Investigation Unit, the worker shall take no action with regard to the prosecution of the suspected fraud except in accordance with instructions or approval by the Special Investigation Unit. However, the worker should complete normal case actions. Normal case actions include closing a case that is found to be ineligible and recovering overpayments.

3-007.04 Case Records: The case records of the AABD/MA or SDP/MA client must be complete and contain facts to substantiate each action with respect to assistance payments. Case records must be retained for four years from the closing of the case.

3-007.05 Fraud: See 465 NAC 2-007 ff.